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May 7, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

Executive Summary

This memorandum provides information on the following:

- **Pursuit of County Position on Legislation**
  - **AB 537 (Bonta).** This measure would make various changes to labor negotiation statutes, including making mediation mandatory after an impasse if either party requests it rather than by mutual agreement. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose unfunded mandates unless they promote a higher authority, **the Sacramento advocates will oppose AB 537.**
- **Status of County-Advocacy Legislation**
  - **County-supported AB 643 (Stone)** - related to State compliance with Federal law, the Uninterrupted Scholars Act, which provides child welfare agencies with access to school records of children under their supervision, passed the Assembly Human Services Committee on April 30, 2013.

- **Legislation of County Interest**

  - **AB 758 (Frazier and Perea)** - related to additional reporting requirements for county welfare agencies' child fatality reports is now a two-year bill.

  - **SB 528 (Yee)** - related to minor and non-minor dependent parents passed the Senate Education Committee on May 1, 2013.

  - **SB 738 (Yee)** - related to sexually exploited and trafficked minors passed the Senate Judiciary Committee on April 30, 2013.

Pursuit of County Position on Legislation

AB 537 (Bonta), as amended April 17, 2013, would make various changes to labor negotiation statutes including: 1) authorizing either party to request mediation if they fail to reach agreement; 2) prohibiting employers from restricting communication between local agency representatives and employee representatives as part of labor negotiation rules; 3) binding a governing body to any tentative agreement reached by the bargaining representatives; and 4) making specified changes related to arbitration.

The Meyers-Milias-Brown Act (MMBA) governs local public employer and employee relations related to arbitration agreements, mediation, ground rules, contract ratification, and employee relations ordinances. The MMBA requires the governing body of a local public agency to meet and confer in good faith with representatives of recognized employee organizations regarding wages, hours, and other terms of employment. Should the representatives fail to reach an agreement, they may mutually agree on the appointment of a mediator and equally share the cost. In addition, the act provides that a final negotiated agreement shall not be final and binding until it is presented to the public agency's governing body for determination. Finally, the MMBA authorizes a local public agency, after consultation with employee organization representatives, to adopt reasonable rules for the administration of employer-employee relations under the act.

AB 537 would make changes to these provisions of the MMBA, including:

- It would allow the representative of the public agency or employee organization, should they fail to reach agreement, to request mediation individually rather than by mutual agreement. If parties fail to mutually agree on a mediator within five days, either party may appoint a mediator.

- It would prohibit a public agency from placing a condition during negotiations that would limit the right of an employee organization to communicate with agency officials.

- After agreement, it would require a written memorandum of understanding to be binding upon final execution by the authorized representatives or, if required by the employee organization's internal rules, upon ratification pursuant to those rules.

- It would require a public agency to engage in the meet and confer process before adopting reasonable rules and regulations to govern employer-employee relations. It further specifies that disputes arising under this provision will be resolved pursuant to the fact-finding procedures of the MMBA.

- It would make the following arbitration changes: 1) apply the provisions of the California Arbitration Act to the enforcement of arbitration agreements under the MMBA; 2) prohibit rejecting an arbitration request due to procedural challenges (timelines, failure to exhaust pre-arbitration remedies, etc.); and 3) make an agreement to arbitrate a dispute enforceable, even if the conduct in question may also constitute an unfair labor practice.

The Chief Executive Office Employee Relations Branch (CEO-ER) indicates that this bill would require the County to expend additional time and resources and needless delay labor negotiation processes. CEO-ER notes that mandating mediation in cases where mediation is not the best recourse would be costly and time-consuming. They indicate that allowing unions to confer directly with elected officials, as AB 537 would allow, could undermine the authority of management representatives and restrict their ability to reach agreement. CEO-ER notes that because the bill would bind a governing body to any tentative agreement reached by the bargaining representatives, it would further prolong negotiations as the governing body would need to review every proposal. Finally, CEO-ER indicates that the mandate to use the meet and confer process for local rules would be unnecessarily burdensome. For example, with no time limits employees could ask to arbitrate issues that took place years ago, long after witnesses are available who could rebut the claims. In addition, eliminating procedural arguments with regard to arbitration could increase the employer's liability in discipline cases.

In opposition of AB 537, the California State Association of Counties (CSAC) noted that implementing the bill will likely prove unpractical as it is improbable that there are enough mediators to serve the State's over 58 counties, 482 cities and over 2000 special districts on a timely basis, creating a backlog and extended delays in negotiations. CSAC further notes that the local meet and confer process mandated by

AB 537 would likely require separate negotiations with individual bargaining units, creating different rules for each unit and diminishing uniform rules by which agencies could efficiently operate from.

As AB 537 creates costly unfunded mandates, this office recommends opposing AB 537. Therefore, consistent with Board approved policy to oppose new unfunded mandates unless they promote a higher priority, and unless otherwise directed by the Board, **the Sacramento advocates will oppose AB 537.**

The bill is co-sponsored by American Federation of State, County and Municipal Employees, California Professional Firefighters, and Service Employees International Union. There currently is no registered support on file. The bill is opposed by the California State Association of Counties, League of California Cities, Rural County Representatives of California, Association of California Water Districts, Butte County Board of Supervisors, California Association of Sanitation Agencies, County of Sonoma Board of Supervisors, Lassen County Administrative Officer, El Dorado Irrigation District, and San Joaquin County Board of Supervisors.

AB 537 is set for hearing in the Assembly Appropriations Committee on May 8, 2013.

Status of County-Advocacy Legislation

County-supported AB 643 (Stone), which as amended on April 30, 2013, would make various changes to pupil record provisions under State law to conform to Federal law pursuant to **County-supported S. 3472**, the Uninterrupted Scholars Act of 2013, that amends the Family Educational Rights and Privacy Act to provide child welfare agencies access to school records of children under their supervision, passed the Assembly Human Services Committee with amendments by a vote of 6 to 0 on April, 30, 2013. This measure now proceeds to the Assembly Floor.

Legislation of County Interest

AB 758 (Frazier and Perea), which as introduced on February 21, 2013, would require, commencing January 1, 2014, county child welfare agencies, within 60 calendar days of a determination that abuse or neglect led to the death of a child, to review and prepare a written report regarding the child's death. The report would need to contain the following information: 1) an analysis of the circumstances leading to the child's death; 2) an evaluation of whether child welfare services provided to the child, if any, could have been improved; and 3) recommendations regarding how to improve the delivery of child welfare services for children in the future, assuming the agency's evaluation determined that services delivered to the child could have been improved. The measure would also require county child welfare agencies to submit the report to the

California Department of Social Services within 10 business days of its completion. **AB 758 was held in the Assembly Human Services Committee and is now a two-year bill.**

As previously reported, AB 758 is nearly identical to AB 1440 (Perea) of 2012, both measures which DCFS and County Counsel identified significant operational impact to the County. AB 1440 was held in the Assembly Appropriations Committee's suspense file last year.

SB 528 (Yee), which as amended on April 15, 2013, would, among other provisions:

- Require a social worker to ensure that a dependent child age 12 years or older has received specified reproductive health information, and has been informed of his or her right to consent to specified medical and mental health treatment. Additionally, it would clarify that existing law, which authorizes a social worker or court to make specified medical care decisions for a dependent minor, shall not be construed to limit the right of the minor to consent to specified treatment;

- Add parenting minor and non-minor dependents (foster youth) to the list of families who are eligible for subsidized State and Federal child care and development services, and that dependent parents are given priority for subsidized child care;

- Require child welfare agencies, school districts, county offices of education, and child care resources and referral agencies to make reasonable and coordinated efforts to ensure that minor and non-minor dependent parents who have not completed high school have access to school programs that provide onsite or coordinated child care; and

- Require child welfare agencies to ensure pregnant and parenting dependents have access to case workers with specialized training, and that case plans are developed through a process which includes specified adults involved in the dependent's care.

Based on the Department of Children and Family Services and County Counsel's review of SB 528, as amended on April 15, 2013, concerns have been identified so far, including with the provisions that would require a social worker to ensure that a dependent child age 12 years or older has received specified reproductive health information. According to DCFS and County Counsel, the bill does not provide direction as to how social workers should obtain the required age-appropriate, medically accurate information on the specified topics that is to be provided to dependent children and to ensure that there is uniformity in the information that is provided.

SB 528 passed the Senate Education Committee by a vote of 8 to 0 on May 1, 2013. The Committee adopted amendments to SB 528 which are not yet in print and are both substantive and technical in nature. This measure now proceeds to the Senate Appropriations Committee. This office will continue to work with DCFS, County Counsel, in addition to the Chief Executive Office of Child Care and other affected departments, to further analyze the potential impact of this measure on the County.

SB 738 (Yee), which as amended on April 30, 2013, would, among other provisions: 1) specify that a minor may become a dependent child of the court if the minor is a victim of human trafficking, sexual exploitation, received food or shelter in exchange for sexual acts, and the parent or guardian failed or was unable to protect the child; 2) establish a State Plan to Serve and Protect Sexually Exploited and Trafficked Minors, and require, no later than January 30, 2014, for an interagency workgroup to be convened to develop the plan that would be submitted to the Legislature, Judicial Council, and the Governor no later than January 30, 2015; and 3) require training for administrators, such as group home facilities, to include instruction on cultural competency and sensitivity to provide adequate care to a sexually exploited and trafficked minor in out-of-home care.

This measure passed the Senate Judiciary Committee by a vote of 7 to 0 on April 30, 2013, and now proceeds to the Senate Appropriations Committee. The Committee adopted an amendment that would sunset the provisions related to the jurisdiction of the dependency court under SB 738 on January 1, 2017, after the plan described above is due, allowing the Legislature to evaluate whether the dependency system is able to appropriately serve commercially sexually exploited children. This office will continue to work with DCFS, Probation Department, County Counsel, District Attorney's Office, and other affected departments to further analyze the impact of SB 738 on the County.

Senator Yee, Chair of the Senate Human Services Committee, is expected to hold an informational hearing on May 14, 2013 on the commercial sexual exploitation of minors and policy considerations for the child welfare system. This office will report on the outcome of this hearing.

We will continue to keep you advised.

WTF:RA
MR:OR:PC:lm

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions